

Attachment 1

DOER's Proposed Methodology for Verifying Product-Based Disclosure of Fuel Mix, Air Emissions and Labor Statistics

This attachment presents the Division of Energy Resources' ("DOER") proposal to the Department regarding a methodology for verifying product-based disclosure. Verification of product-based disclosure uses the same fundamental information as company-based disclosure, and would not likely require the Department to devote additional resources to implement. The only difference is that product-based disclosure includes one additional level of allocation of generation, and its associated characteristics, among various products offered by the supplier¹. In addition, DOER stresses that compliance with product-based information requirements is necessary only when a supplier offers differentiated generation service products. If a supplier chooses not to offer differentiated generation service products, it does not have to allocate fuel mix, emission rates and labor statistics among various products. The supplier, if not a Load Serving Entity ("LSE")², would disclose this information based on the generation sources allocated to the supplier by its LSE.³ However, if a supplier chooses to offer differentiated generation service products, the supplier should be held accountable for the representations it has made regarding such products.

The DOER believes that implementing a process for verifying product-based disclosure policy is straight-forward, possible to implement by March 1, 1998, and is not appreciably different from the verification process that would be required under a company- or supplier-based disclosure policy. A product-based disclosure policy would consist of the following elements:

1. ISO settlement account data is the primary source of information that would be used to allocate total, NEPOOL-wide generation and generation imports to specific LSEs, suppliers, and, eventually, to generation service products. The settlement process requires that hourly generation be "matched up" with the hourly consumption. Correlating the real-time production of electricity with real-time consumption patterns is necessary in order to ensure that the right producers are appropriately compensated by the right consumers. Accordingly, the settlement process requires the ISO to allocate total NEPOOL-wide generation and imports to each LSE on a periodic basis (most likely on a monthly basis). We propose that the settlement report produced by the ISO and given to each LSE at the end of each reporting

¹ In this context, we are using the term "supplier" to refer to a entity that provides generation service to retail customers. A supplier may be, but does not have to be, a Load Serving Entity ("LSE"). If not a LSE, the supplier must have a contractual relationship with an LSE in order to have its retail load supplied by the NEPOOL system.

² In this context, we are using the term Load Serving Entity ("LSE") to refer to the entity that has a settlement account with the ISO. An LSE can be a wholesale aggregator, aggregating the retail loads of several retail suppliers, a retail supplier selling directly to retail customers, or both. LSEs may serve Massachusetts loads, or the loads across several jurisdictions. LSEs are regulated by the Department only if they sell electricity in the retail market in Massachusetts.

³ If the supplier were an LSE, but did not differentiate products, then disclosure for that supplier would be based on the LSE's ISO settlement account.

period be the basis for product-based disclosure.⁴ As described below in greater detail, this report would show the generation sources used to serve the LSE's load for the period. Since our approach builds on a function that the ISO must play in a restructured electricity industry, our proposal would pose no additional burden on the ISO. This step would be required for either a company-based or product-based disclosure process.

2. To the extent LSE or supplier loads are served by specific generation sources or specific mixes of generation sources ("Known Sources"), such information must be disclosed to the ISO for settlement purposes. Where LSEs or suppliers own or operate Known Sources, or have contracts with the owner or operator of such sources, direct links between generation at Known Sources and specific LSE or supplier loads can be made. Using this information, the ISO would allocate the energy generated by Known Sources to specific LSEs for settlement purposes. Since generation from Known Sources can be allocated to LSEs, fuel, emissions, and labor statistics associated with Known Sources can also be allocated and traced to specific LSEs. While the Department does not regulate LSEs that are not retail suppliers in Massachusetts, all suppliers selling in the state, whether they are LSEs or not, will have the responsibility to ensure that data on fuel use, emissions, and labor statistics are collected for each of its Known Sources, and that these data are prorated among the kilowatt-hours allocated to each LSE and/or supplier. This step would be required for either a company-based or product-based disclosure process.
3. To the extent that some of the LSE's load is not served by Known Sources (such as generation from the spot market), the fuel mix, emission rates, and labor statistics associated with NEPOOL-wide generation would be used to represent the characteristics of such "System Power."⁵ Imports of energy from outside the NEPOOL system should be attributed the characteristics of system-wide generation of the power pool from which the energy originated, unless the import is tied directly to Known Sources. This step would be required for either a company-based or product-based disclosure process.
4. We propose that labels and other disclosure statements be updated by the suppliers, in consultation with the LSE, on a quarterly basis and filed with the Department along with supporting documentation. A quarterly update requirement would balance the need to smooth out potentially anomalous fluctuations in monthly production at Known Sources while providing consumers with timely information concerning actual fuels, emissions, and labor statistics associated with specific generation service products. This step would be required for either a company-based or product-based disclosure process.
5. Once generation from Known Sources and System Power is provided to each LSE by the ISO

⁴ A Company- or Supplier-based system would also be based on these reports.

⁵ We recognize that our proposal will result in fuels and emissions being double-counted in the System Power category. Ideally, fuels, emissions and labor data associated with generation from Known Sources that have been directly allocated to LSEs should be removed from the total, system-wide fuel mix, emissions rates, and labor statistics when allocating these characteristics to System Power. Until a methodology is worked out with the ISO or other appropriate entity(s) to allow for such an allocation, we have proposed a simpler methodology at this time.

via the monthly settlement reports, the LSE would allocate such generation to specific suppliers, to the extent that the LSE aggregated the loads and resources of more than one supplier. If the LSE serves only one supplier (as would be in the case in which the LSE and the supplier are the same entity), then no additional allocation of generation among suppliers is necessary. In a restructured wholesale electricity market, however, LSEs are likely to aggregate the loads and resources of several suppliers for a variety of reasons including taking advantage of economies of scale. Since loads and resources among various suppliers within a common LSE settlement account will differ, an improper allocation of Known Sources and System Power among suppliers will have adverse economic consequences for some of the suppliers. Since LSEs must properly allocate generation sources among the suppliers within its settlement account, we propose that this allocation be used for the purpose of tracing Known Sources and System Power among suppliers. Suppliers regulated by the Department would be responsible for gathering this information from LSEs. This step would be required for either a company-based or product-based disclosure process.

6. The supplier, in consultation with its associated LSE(s), would be responsible for submitting data to the Department showing the allocation of Known Sources and System Power to suppliers starting with the initial allocation of such resources to the LSE by the ISO.⁶ We propose that these data be filed with the Department on a quarterly basis. LSEs may request that commercially sensitive data, if any, be treated confidentially.⁷ This step would be required for either a company-based or product-based disclosure process.
7. Suppliers, in consultation with LSEs, should ensure that all Known Sources owned or contracted by a supplier are appropriately allocated to that supplier's generation service product(s). If agreed to by the suppliers, LSEs can allocate the Known Sources of one supplier to another supplier whose load is aggregated within the same LSE settlement account. For example, if a supplier's Known Sources of renewable generation is not sufficient to meet its claimed product requirement for a specific period, and another supplier within the same settlement account has an excess of such generation for the same period, suppliers ought to be able to trade generation resources through its LSE. This step would be required for either a company-based or product-based disclosure process.

⁶ We recognize that some LSEs may not want to submit such information to the Department. To the extent that a LSE is not a supplier (i.e., does not sell to Massachusetts Customers) and is strictly a wholesale aggregator, the Department would have no direct jurisdiction over the LSE; the Department has direct jurisdiction over Suppliers serving Massachusetts retail customers. While this may appear to be a daunting jurisdictional issue, the Act requires that all Suppliers serving Massachusetts customers provide such information. Thus, suppliers must ally with LSEs who are willing to comply with the Department's information requirements if suppliers are to comply with the Act. In addition, suppliers can become LSEs. Thus, we do not believe that compliance with this information requirement presents an issue for the Department.

⁷ It should be noted that the LSE allocation process does not have to match generation sources with specific loads on a hour-by-hour basis. Rather, we propose that the requirement is simply that three months of LSE generation resources must match the total of all allocations made to associated suppliers, and eventually to individual generation service products, over the three-month period.

8. To the extent suppliers offered (or wish to offer) differentiated generation service products⁸ to the customers they served, such suppliers must further allocate the generation from Known Sources and System Power and its associated fuel mix, emission rates, and labor data to each product offering. To the extent suppliers do not offer (or do not care to offer) differentiated generation service products, the supplier would merely report the fuel mix, emission rates, and labor statistics related to the Known Sources and System Power allocated to them by the LSE. This step is the only step that is unique to the product-based disclosure process, and not required under company-based disclosure.
9. Suppliers must certify the product sales data used in the LSE allocation process, and certify the accuracy of the allocations of fuels, emissions, and labor statistics among its differentiated generation service offerings, if any. The basis of the certification would be an independent auditor's report, as normally rendered for audited financial statements. Using a third party to audit product sales and associated information would reduce the burden on the Department to verify claims made by suppliers. Auditor reports would be filed with the Department on an annual basis. Suppliers may request that any commercially sensitive data contained in the opinion, if any, be treated confidentially. The Department may open an investigation, if required by the public interest, to review such reports, and request that suppliers provide the Department with documentation to verify the accuracy of such reports, or of any generation service product claim made by suppliers. Note that requiring such a certification process is not unique to a product-based disclosure system. A Company- or Supplier-based disclosure system could also require such a process, although it would not likely be as comprehensive.

While this process may appear complicated, it should be noted that only step 8 is the additional steps needed to verify product-based disclosure. All other steps would be required to verify both company-based on product-based disclosure information.

t:\policy\jm\interim\attach1.doc

⁸ Differentiated in terms of fuel mix, emission rates, or labor data.